

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:

April 14, 2005

PETITION FOR EXPEDITED REVIEW OF  
CENTRAL OFFICE CODE DENIAL BY THE  
NUMBER POOLING ADMINISTRATOR RELATING  
TO TENNESSEE ARMY NATIONAL GUARD

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) DOCKET NO.  
) 05-00001  
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ORDER APPROVING PETITION FOR  
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL  
AND REVERSING CENTRAL OFFICE CODE DENIAL

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This matter came before Director Deborah Taylor Tate, Director Sara Kyle, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on March 14, 2005 for consideration of the *Petition for Expedited Review of Central Office Code Denial* relating to Tennessee Army National Guard ("National Guard") filed by BellSouth Telecommunications, Inc. ("BellSouth") on January 6, 2005.

**BACKGROUND**

In March of 2000, the Federal Communications Commission ("FCC"), recognizing "the near-crisis" caused by the exhaustion of telephone numbers in certain expanding geographic areas, initiated a policy designed "to slow down the rate at which central office codes (or NXXs) in those areas are assigned to carriers."<sup>1</sup> Among other things, the FCC adopted a mandatory utilization data

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<sup>1</sup> *In the Matter of Numbering Resource Optimization*, FCC 00-104 (*Report and Order and Further Notice of Proposed Rule Making*) 15 F C C R 7574, 2000 WL 339808, ¶¶ 2, 183, 191 (March 31, 2000) (hereinafter "*First Report and Order*"); see also 47 U S C. § 251(e)(1) (directing the FCC to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis")

reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and provide incentives to use numbers efficiently.<sup>2</sup> Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration (“NANPA”) “or another entity or entities, as designated by the Commission” for a decision as to whether to allocate the numbers.<sup>3</sup>

On June 18, 2001, the FCC designated NeuStar, Inc. (“NeuStar”) as the national thousands-block number Pooling Administrator.<sup>4</sup> NeuStar, which also serves as the NANPA, currently administers thousands-block number pools by assigning, managing, forecasting, reporting, and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone numbers in blocks of 1,000. On March 14, 2002, thousands-block number pooling was implemented in the Nashville Metropolitan Statistical Area, which is in the 615 Numbering Plan Area (“NPA”). Since then, telecommunications service providers participating in number pooling in that area are required to submit their requests for additional numbering resources to the Pooling Administrator. The life expectancy of the 615 NPA is projected to be the second quarter of 2012.

On December 28, 2004, BellSouth submitted a Central Office Code (NXX) Assignment Request to NeuStar to be assigned an NXX code necessary to meet the demands of its customer, National Guard. National Guard requested two (2) thousand-blocks in order to accommodate the consolidation of some of its existing statewide locations, and to incorporate those locations into its existing telephone numbering plan. Additionally, National Guard cited anticipated growth as a basis for the requested assignment. BellSouth’s application was for a growth code in the 615 NPA to fulfill National Guard’s request.

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<sup>2</sup> See *First Report and Order*, ¶¶ 40-41, 84, 97-98

<sup>3</sup> See 47 C.F.R. § 52.15(a), see also *First Report and Order*, ¶¶ 143-48 (providing background on the development of the pooling administrator)

<sup>4</sup> *In the Matter of Numbering Resource Optimization*, FCC 01-362 (*Third Report and Order and Second Order on Reconsideration*) 17 F.C.R. 252, 2001 WL 1658101, ¶ 11 (Dec. 28, 2001) (hereinafter “*Third Report and Order*”), see also 47 C.F.R. § 52.15(a)

NeuStar, citing BellSouth's failure to meet its NXX Assignment Guidelines, denied BellSouth's request on December 28, 2004. The guidelines require that a rate center must have a 75% utilization rate and that its estimated exhaust date not exceed six months. BellSouth could not meet these guidelines. While the Smyrna Rate Center has an 83.9% utilization rate, the projected exhaust date is approximately 79 months. BellSouth has not been able to fulfill this customer's request because the company lacks NXXs with a satisfactory block that it can assign to the customer.

On January 6, 2005, BellSouth filed with the Authority its *Petition for Expedited Review of Central Office Code Denial*. BellSouth asserts that its inability to supply National Guard with the requested numbers prevents BellSouth from providing the quality of service its customers expect.<sup>5</sup> BellSouth requests that the Authority reverse the Pooling Administrator's denial of its application and order the release of numbering resources.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Review by the TRA of the Pooling Administrator's denial of BellSouth's application is authorized by the FCC.<sup>6</sup> According to the FCC,

We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. State commissions should only apply a safety valve mechanism as a last resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid growth in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances.<sup>7</sup>

State commissions conducting this review must act consistently with the FCC's policy of facilitating fair and efficient numbering administration in the United States and ensuring that numbering

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<sup>5</sup> *Petition for Expedited Review of Central Office Code Denial*, p 4 (January 6, 2005).

<sup>6</sup> *Third Report and Order*, ¶ 61, see also 47 C.F.R. § 54.15(g)(3)(iv)

<sup>7</sup> *Third Report and Order*, ¶ 61

resources are available to all telecommunications service providers on a fair and equitable basis.<sup>8</sup> At a regularly scheduled Authority Conference held on March 14, 2005, the voting panel assigned to this docket considered BellSouth's *Petition for Expedited Review of Central Office Code Denial*. After consideration of the record, the public interest,<sup>9</sup> and this agency's responsibility to foster competition in the telecommunications industry, the panel voted unanimously to approve BellSouth's request for expedited review and reverse the Pooling Administrator's denial of BellSouth's request for additional numbering resources, specifically for the assignment of two thousand-blocks to BellSouth for the Smyrna Rate Center, Switch/POI designation SMYRTNMADS0.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition for Expedited Review of Central Office Code Denial* filed by BellSouth Telecommunications, Inc. is granted.
2. The Pooling Administrator's decision to deny BellSouth's request for two thousand-blocks for the Smyrna Rate Center is reversed as stated herein.

  
Deborah Taylor Tate, Director

  
Sara Kyle, Director

  
Ron Jones, Director

<sup>8</sup> See, e.g., *In the Matter of Numbering Resource Optimization*, DA 01-2013 (*Order*) 16 F.C.C.R. 15,842, 2001 WL 964979, ¶ 8 (Aug 24, 2001) (“[T]he state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis, that numbering resources are made available on an efficient and timely basis; that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers, and that the state commissions not unduly favor one telecommunications technology over another”), see *FCC Announces GSA Approval of North American Numbering Council Through October 4, 2003*, DA 01-2393 (*Public Notice*) 16 F.C.C.R. 18,502, 2001 WL 1222428 (Oct 15, 2001).

<sup>9</sup> See Tenn Code Ann § 65-4-123 (2004)